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Written statement* submitted by the Modern Advocacy, Humanitarian, Social and Rehabilitation Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2018]

* Issued as received, in the language(s) of submission only.

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Effective Realisation of Civil and Political Rights through Eliminating the Ambiguity on the terms "Morality" and "Public Order" within a Democratic Society

Introduction

In witness of articles 19, 20 and 21 of the Universal Declaration of Human Rights (UDHR) of 10 December 1948 that solemnises the right to freedom of opinion and expression, peaceful assembly and association; democratic consideration and participation of individuals in governance and to public service access in their country.

Acknowledging the United Nations Charter of 26 June 1945 wherein member States and peoples of the United Nations reaffirmed their faith in fundamental human rights with respect to dignity and worth of the human person, and the need for justice and respect for the obligations arising from treaties and other international obligations between member State parties, meanwhile promoting social progress and better standards of life in larger freedom; and further reaffirmed within articles 1 and 8 of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in Vienna on 25 June 1993.

Recalling the International Labour Organisation (ILO) Convention of 17 June 1948; articles 4 and 8 of the International Covenant on Economic, Social and Cultural Rights of 16 December 1966; articles 19, 21, 22 and 25 of the International Covenant on Civil and Political Rights (CCPR) of 19 December 1966; and articles 5, 6, 7 and 8 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms or the Declaration on Human Rights Defenders of 9 December 1998; as well as other regional resolutions such as in articles 9, 10 and 11 of the African Charter on Human and Peoples Rights of 27 June 1981; and the Declaration of Principles on Freedom of Expression in Africa of 17 - 23 October 2002; wherein all, emphasis are placed on the guarantee for individuals' and groups' freedoms of expression and association, unions and peaceful assembly without any restrictions except those withheld by law having a legitimate objective as necessary within a democratic society.

The case study of Cameroon in its Constitution1 duly guarantees the universally endorsed freedoms meanwhile laws No. 90/53 and 90/55 of 19 December 1990 bearing on the freedom of associations and public events respectively represent the national laws in the effect. However, the nuances in both conception and implementation of these promulgated law texts remain alarmingly abusive.

Abusive Nuances with Respect to Freedoms of Expression, Peaceful Assemble and Association

Severally, the term "public order" has been used by legislative and executive arms of the government to enact very repressive laws and administrative or judicial procedures that completely undermines fundamental human freedoms.

1) In addressing issues of terrorism, law No. 2014/0282 of 23 December 2014 introduced new grounds for a death penalty and contains provisions that are incompatible with basic human rights. It prioritises the jurisdiction of military over civilian courts and notably, it is widely applied even for instances of alleged failure to report terrorist activities and with numerous abuses noted such as arbitrary detention, torture and extrajudicial killing committed in the name of counter-terrorism3.

2) Excessive administrative and judicial powers held by administrative authorities in matters freedoms of association, peaceful assembly and public procession. For example, the Minister of Territorial Administration (MINAT) is granted an equivocal competence to that of the judge for dissolving an association.4 This has been used for dissolving and banning the activities of the Anglophone Civil Society Consortium of Cameroon (CACSC) on January 17, 2017 by decree n ° 00000009 / A / MINATD / CAV and its leaders arrested, a move that has stalled the ongoing crisis within the North West and South West regions of Cameroon.

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1 The preamble of Cameroon's 1996 constitution guarantees freedom of expression, assembly and public manifestations under conditions fixed by law; art. 45 places duly approved or ratified treaties and international agreements above national laws.

2 The anti-terrorism law exhumes death penalties and severe breaches in freedoms of expression and association implying that issues not aligning with State priorities and operational agendas are unwelcomed thereby tactically forbidding State Criticism. Issues addressed in articles 2, 6, 7, 9 and 14 of CCPR.

3 No. 11 on counter terrorism within the Human Rights Committee's concluding observations on the fifth periodic report of Cameroon of 13 November 2017 (CCPR/C/CMR/CO/5)

4 Section 13 (2) of Cameroon law no. 90/53 of 19 December 1990 indicates that the Minister of Territorial Administration by a decree can dissolve any association that puts the security of the state is questioned or simply moves away from its original objective. This provision is already covered by section 12 for the judge only who should make judgment from a neutral position as reflected in articles 6, 7, 8, 10 and 11(1) of UDHR and articles 22(3) of CCPR.

3) Abuse of power of office and complete disregard of legal texts through misuse and misinterpretations of contextual positions such as "public order" for self-centred ends. For example, the legal system of declaration for public events has been official fine tuned into that of authorisation even though the law5 dictates the contrary. Sometimes though planned activities have been legally declared, the notion of "public order and good morals" has been used to prohibit many events, participants violated during their activities and locations sealed without any order emanating from a judicial authority.6

Some Recommendations for Reinforcing Civil and Political Rights in Cameroon

From an international dimension, the Human Rights Committee's concluding observations on the fifth periodic report on Cameroon of 13 November 2017 addressed aspects of freedom of expression and assembly; torture, ill-treatment, reprisal and protection of journalists and human rights defenders; internet access disruption especially in the context of the crisis in English-speaking parts of the country, and of the excessive use of force by security forces.7 The following have been advised for corrective measures:

- Cameroon government should ensure that any restrictions on press and media activities or on Internet access are fully compatible with the provisions of article 19 (3) of CCPR; and should protect victims from any form of torture or ill-treatment; investigate, prosecute and sentence the perpetrators of such acts;
- Enhance measures for the protection of human rights defenders from threats and intimidation, and investigate, prosecute and sentence the perpetrators of such acts;
- Lift any unnecessary restrictions on the freedom of assembly and the freedom to demonstrate, in particular for members of the country's English-speaking minority; and conduct effective and impartial investigations of all cases involving the excessive use of force to disperse demonstrations, and bring the perpetrators to justice.

Within the national scope, many civil society movements have decried the incessant series of poor governance coupled with administrative and political malice for personal interests. The association Pairs Educateurs et Promoteurs (PEP) Sans Frontières united over 30 human rights organisations across the 10 country regions to learn advocacy techniques and mechanisms used by human rights defenders. They ended up with a joint and signed declaration8 to address both legislative defects and administrative usage abuses on the laws governing freedom of association, and freedom of assembly and public manifestations. The document requests the State of Cameroon to9:

- Cancel section 13(2) and complete section 12 to enhance effective separation of executive and judiciary responsibilities.
- Provide a succinct definition of the concept or notion "public order" and "morality" within the regularly applied context by administrative authorities under law 90/55 of 19 December 1990 in relation to regulations governing public meetings and processions.
- Provide at least 3days notice to prohibit any already declared public meeting and procession as per section 8(2) under same law.
- Provide for effective penal sanctions towards addressing the abusive actions of administrative authorities.10

Conclusion

State governance and personnel need to realise that impunity is the most dangerous setback for institutional and sustainable development therefore; State officials who violate instituted laws, coupled with the promulgation of unclear legal terms and notions are the causes of terrorism in governance that as well violates the very ethical essence of the existence of the State.

Beware and Lets all Stand Up for Human Rights!

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5 Law no. 90/55 of 19 December 1990 bearing on Public meetings and Demonstrations

6 Examples include disrupted opposition political parties' events; ban on human rights events such as Amnesty International's press conference in Yaoundé of 25 May 2017; refusal of revenue to associations defending of LGTB rights. Reflections within articles 12 of UDHR and Cameroon's 1996 constitution;

7 Abuses reflected within articles 2, 6, 7, 14, 19, 21 and 26 of CCPR

8 Drafted, signed and officially made public on the 16 August 2018, Douala - Cameroon

9 Exercising their rights to complain about policies and actions of government officials as per articles 9(3a) and (3c) of the Declaration on Human Rights Defender of 9 December 1998

10 Article 2(2) of CCPR is evoked by the national civil society human rights defenders – The State of Cameroon should respect its international human rights obligations.